THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20681 OF 2006

DATED 29th SEPTEMBER, 2006

BETWEEN

B.R.Damodar Reddy

… Petitioner

and

The Government of A.P., rep.by its Secretary (Revenue), Secretariat Hyderabad and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20681 OF 2006

ORDER:

The petitioner and M/s.B.Kista Reddy, B.Ram Reddy and B.Bal Reddy are allegedly joint owners of lands comprised in survey Nos.569 to 573, 580 and 581 situated at Aliabad village of Shamirpet Mandal in Ranga Reddy District. It is alleged the Record Of Rights (ROR) maintained by the Revenue Divisional Officer (RDO) also shows the petitioner's ownership. When he obtained Pahanis during recent years he found that record pertaining to the period 1982-1983, 1986- 1986 to 1990-1991 and 1992-1993 shows the names of M/s.Prabhakar Reddy and Bikshapathy Reddy in the occupants column. It is also alleged that in the record for the year 1992-1993, the names of Venkat Reddy, Raghava Reddy, Janardhan Reddy, Sudhakar Reddy and Suryaprakash Reddy were mentioned in the occupants column. He alleges that the names of those third parties came to be entered in the ROR without due process of law and without notice to the petitioner. Therefore, he sent a representation to the Mandal Revenue Officer (MRO), Shamirpet on 22.09.2003 and 23.02.2004, in vain. Hence, he sent a letter to the Joint Collector-II, Ranga Reddy District on 24.06.2006 seeking redressal under Section 9 of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). By impugned Memo, dated 11.07.2006, the Joint Collector-II rejected the application/revision petition advising the petitioner to approach the civil Court under Section 8(2) of the Act.

Learned counsel for the petitioner submits that Section 9 of the Act as such does not impose any limitation on the power of the Joint Collector to call for the records of lower authorities and modify those orders, if such orders are found to be illegal, improper and incorrect. According to the learned counsel, the Joint Collector committed an error by not exercising jurisdiction. He placed reliance on the decision of this Court in **B.Sitaram Reddy v Joint Collector, Mahabubnagar**[1]. Learned Assistant Government Pleader for Revenue opposed the writ petition placing reliance on the decisions of the Supreme Court in **State of Gujarat v Patel Raghav**[2], **M/s.Hindustan Times v Union of**

India[3] and **Jai Mangal Oraon v Mira Nayak**[4].

The petitioner herein made an application to MRO on 22.09.2003 and 09.06.2006 alleging the defects in making entries in ROR for the year 1982-1983. When no action was taken thereon, the petitioner submitted the copies of the representations to the Joint Collector-II, Ranga Reddy District, requesting to rectify the errors by removing the names of the persons mentioned in the ROR. When an application is made for rectifying the entries in the ROR in June, 2006 requesting rectification of entries of 1982-1983, the period of more than twenty years can certainly be treated as enormous delay. Can the Joint Collector entertain revision petition filed with such huge delay?

Section 9 of the ROR Act does not prescribe the time within which an application has to be made to the Joint Collector against the order passed by the Mandal Revenue Officer or the Revenue Divisional Officer, under Sections 3, 5, 5-A or 5-B of the ROR Act. Be it noted that against any order passed by the Mandal Revenue Officer under Section 5(1) of the ROR Act, an appeal lies to the Revenue Divisional Officer under Section 5(4) of the ROR Act. Likewise, against any order passed under Section 5-A of the ROR Act by the Mandal Revenue Officer, an appeal would lie to the Revenue Divisional Officer under Section 5-B of the ROR Act and the law prescribes time limit of 30 days. Though Section 9 confers vast powers in the Joint Collector, to modify, annul or reverse or remit for reconsideration any order passed by the Mandal Revenue Officer or the Revenue Divisional Officer, the same does not prescribe any time within which such power has to be exercised. In such cases, it is well settled that question of propriety of exercising power with reference to the long delay depends on facts and circumstances of each case. In the absence of necessary jurisdictional facts, the Joint Collector cannot revise the orders passed by the Mandal Revenue Officer or the Revenue Divisional Officer after a long lapse of time.

In **Patel Raghav** (supra), the apex Court considered the scope of revisional power of the Commissioner under Section 65 read with Section 21 of Bombay Revenue Code, which provided that the order can be revised at any time by the Commissioner. The Supreme Court held that even where statute confers power to revise orders “at any time”, the power must be exercised within a reasonable time and the length of reasonable time must be determined by the facts and circumstances of the case and the nature of the order, which is being revised. The same view was reiterated in **Mansaram v S.P. Pathak**[5] and **Ram Chand v Union of India**[6].

In **Hindustan Times** (supra), the Supreme Court considered the scope of Section 14-B of the Employees Provident Fund and

Miscellaneous Provisions Act, 1952 which confers power on the concerned authority to recover damages from the employer for contravention of the Act and the scheme thereunder. Section 14-B conferred quasi-judicial power, and therefore, the authority was bound to give reasons for its orders. It was also observed that the provident fund amounts deducted by the employer from the wages of an employee are deemed to have been entrusted for the purpose of paying the contribution, and therefore, the legislature did not think fit to make any provisions prescribing the period of limitation. The Court referring to **Patel Raghav** (supra) and **Ram Chand** (supra) observed as follows.

> … The power under Section 14-B of the Act should be exercised within a reasonable time. The reason is that in the cases where rule of 'reasonable time' was applied the exercise of powers by the authority at a very belated stage was likely to result in the deprivation of property which rightly and lawfully belonged to the person concerned, the position under Section 14-B of the Act (sic.) is totally different. The employer who has defaulted in making over the contributions to the Trust Fund had, on the other hand, the use of monies which did not belong to him at all. Such a situation cannot be compared with the above line of cases, which involve prolonged suspense in regard to deprivation of property. In fact, in cases under Section 14-B if the Regional Provident Fund Commissioner had made computations earlier and sent a demand immediately after the amounts fell due, the defaulter would not have been made to use these monies for his own purposes or for his business. It does not lie in the mouth of such a person to say that by reason of delay in the exercise of powers under Section 14-B, he had suffered loss. On the other hand, the defaulter had the benefit of the 'boon of delay' which "is so dear to debtors".

In **Jai Mangal Oraon** (supra), it was further observed that even where the provision commences with the words "if at any time", it cannot be taken to mean that the powers could be exercised without any point of time limit unmindful of the rights of the parties acquired under ordinary law of limitation.

In the present case, the Joint Collector-II, Ranga Reddy District, rejected the application/revision petition of the petitioner on the ground that it is filed beyond reasonable time and also gave opportunity to the petitioner to approach the civil Court. There is no denial that under Section 8(2) of the Act, a person who is in possession, who is aggrieved by any entries in ROR can institute a suit and the alleged incorrect/wrong entries shall have to be corrected/amended as per the decree of the civil Court. The order of the Joint Collector, therefore, is not vitiated by any

error of jurisdiction or illegality.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

29.09.2006.
pln

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[1] 2006 (5) ALD 261

[2] (1969) 2 SCC 169 = AIR 1969 SC 1297

[3] AIR 1998 SC 688

[4] (2000) 5 SCC 141 = AIR 2000 SC 2276

[5] (1984) 1 SCC 125

[6] (1994) 1 SCC 44